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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,962	11/21/2003	Rafael A. Vazquez	P02753	4428

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EXAMINER

PHILLIPS, CHARLES E

ART UNIT PAPER NUMBER

3751

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/718,962	Applicant(s) VAZQUEZ, RAFAEL A.	
	Examiner Charles E. Phillips	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) 11, 12 and 16 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-10, 13-15 and 17-20 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by McDuffee.

See Fig. 7 where access to the container is provided by removable cap 82. The fastener is the threaded connection, the orifices are seen at 72 and as set forth in col. 3, lines 38-40 possess a diameter of 1.5-19 mm of which the claims 1/8 and 1/16 of an inch falls into or overlaps.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen in view of McDuffee.

Nielsen in Fig. 2 teaches the container and provides (a), (d) and (e). Lacking here is the teaching of reuse, i.e., clause (b) and the specific dimensions of clause (f). As set forth supra McDuffee teaches these and to provide the former with these features would have been obvious to the ordinary artisan as both are shown to be employed in the identical environment of a toilet tank. Nielsen meets the claims 4-6

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substance and the claim 13 tether at 14 and fastener, i.e., the cap threads as well as the claims 15 flow through feature.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDuffee, as applied supra, in view of Goncalves '431.

To provide for the former to be constructed as taught in Figs. 1-2 of the latter would have been obvious to the ordinary artisan as the use of manufacturing perfecting features of one dispenser would have been prima facie obvious for us in another dispenser in order to glean the disclosed and inherent advantages thereof. The "cylindrical container portions" are respectively 5 and 6 connected by hinge 11.

Claims 8-10, 14, 15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 13 above, and further in view of Goncalves '431 as applied in the rejection of claim 2 supra.

Re: claims 9-10, the use of cable or chain would have constituted obvious alternative mechanical equivalents.


Claims 11, 12 and 16 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/13/05.

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The traverse is not well taken as applicants arguments are germane to restriction practice, not election of species practice, see MPEP 808.01 (a). Claims 11-12 are non-elected as the Fig. 9 disclosure makes no mention of a "clip".

Any inquiry concerning this communication should be directed to Charles Phillips at telephone number 571-272-4893.

Reilly et al and Marks show another dispensers of cylindrical shape.

  
Charles E. Phillips  
Primary Examiner